



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1994

Mr. David E. Cherry
Cherry, Davis, Harrison,
Montez, Williams & Baird, P.C.
801 Washington Avenue
First National Bank Building, 7th Floor
Waco, Texas 76701-1291

OR94-047

Dear Mr. Cherry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.¹ We assigned your request ID# 23329.

The City of Robinson (the "city"), which you represent, has received a request for various documents. You object to release of one of the requested documents, specifically, a letter dated November 8, 1993, from you to the mayor, councilpersons, city administrator, and city secretary. You claim that sections 552.101, 552.103, 552.107, and 552.111 of the act except this letter from required public disclosure. As you do not comment on the remainder of the requested documents, we assume that these documents have been or will be made available to the requestor. See Open Records Decision No. 363 (1983).

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). You advise us that the submitted letter relates to a suit styled *Griffin v. The City Council of the City of Robinson*, Cause No. 93-3754-1 in the 19th Judicial District Court of McClennan County, Texas. You have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The letter of November 8, 1993, may therefore be withheld.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, e.g., through discovery or otherwise, no section 552.103(a) (former section 3(a)(3), V.T.C.S. article 6252-17a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). As we resolve this matter under section 552.103(a), we need not address the applicability of the other claimed exceptions at this time.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in cursive script that reads "Susan Garrison".

Susan Garrison
Assistant Attorney General
Open Government Section

SLG/GCK/rho

Ref.: ID# 23329

Enclosure: Submitted document